

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 01/04/2024

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	
-against-	:	16-CR-0082 (VEC)
	:	
KENNETH SMITH	:	<u>ORDER</u>
	:	
Defendant.	:	
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VALERIE CAPRONI, United States District Judge:

WHEREAS on April 6, 2017, Kenneth Smith (“Defendant”) was sentenced principally to a term of imprisonment of eleven years, *see* Tr., Dkt. 197; J., Dkt. 168;

WHEREAS on December 12, 2023, Defendant filed a motion requesting that the Court consider a sentence reduction pursuant to Amendment 821 to the U.S. Sentencing Guidelines (“Amendment 821”), *see* Mot., Dkt. 323, which went into effect on November 1, 2023, and which applies retroactively; *see* U.S.S.G. §§ 1B1.10, 4A1.1(e), 4C1.1;

WHEREAS on January 3, 2024, the United States Probation Department reported that Defendant is not eligible for a sentence reduction, *see* Probation Report, Dkt. 324; and

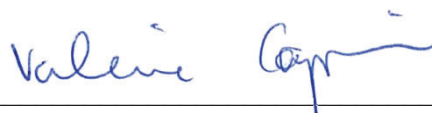
WHEREAS the Court has considered the record in this case;

IT IS HEREBY ORDERED that Defendant is ineligible for a sentence reduction pursuant to Amendment 821 because (1) Defendant did not receive a sentence enhancement for committing the charged offense while under a criminal justice sentence; and (2) Defendant did not have zero criminal history points when convicted. Defendant’s motion is therefore DENIED.

IT IS FURTHER ORDERED that the Clerk of Court is respectfully directed to close the open motion at Dkt. 323 and to mail a copy of this Order to Mr. Smith.

SO ORDERED.

Dated: January 4, 2024
New York, NY



VALERIE CAPRONI
United States District Judge